



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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CHICAGO, IL 60604-3590

APR 12 2010

REPLY TO THE ATTENTION OF:

E-19J

Robert Wagner, P.E.
Project Manager- Planning Unit
Division of Transportation System
Northeast Region
944 Vanderperren Way
P.O. Box 28080
Green Bay, WI 54324-0080

**RE: Final Environmental Impact Statement for the Wisconsin State Highway 15, New
London to Greenville, Outagamie County, Wisconsin
EIS No. 20100095**

Dear Mr. Wagner:

In accordance with Section 309 of the Clean Air Act and the National Environmental Policy Act, the U.S. Environmental Protection Agency (EPA) has reviewed the Final Environmental Impact Statement (EIS) for the proposed Wisconsin State Highway 15 (WIS 15) from New London to Greenville in Outagamie County, Wisconsin.

The purpose of the WIS 15 project is to provide a safe and dependable transportation corridor by eliminating design deficiencies, reducing congestion and addressing present and projected traffic volumes for the area. The Wisconsin Department of Transportation's (WisDOT) preferred alternative is a combination of the Preferred Option A and Preferred Alternative 3. Preferred Option A expands State Highway 15 to a four-lane divided highway with a 60-ft. median along the existing roadway for 3.4 miles from New London to Hortonville. Preferred Alternative 3, beginning on the west side of Hortonville, consists of a bypass to the north of Hortonville and expanding the existing roadway to a four-lane divided highway to the east of Hortonville ending in Greenville. The Preferred Alternative will displace 22 residences, 6 commercial properties, and one community facility, resulting in the permanent loss of 33.3 acres of wetlands.

EPA commented on the Draft EIS on March 23, 2007. At that time, EPA expressed its preference for Alternative 1 and Option A. Upon receiving additional information from WisDOT on April 27, 2009, May 15, 2009 and via a teleconference on May 21, 2009, EPA stated its concurrence to Preferred Alternative 3 with Option A in a letter dated June 18, 2009.

In our March 23, 2007 Draft EIS comment letter, EPA rated Alternative 1 and Option A as Lack of Objections and Alternatives 2, 3, 4 and Option B as Environmental Concerns / Insufficient Information. The rating for the Draft EIS as a whole was Environmental Concerns / Insufficient Information (EC-2).

In our draft comment letter, we expressed concerns regarding wetlands and water quality, air quality, noise, historic properties, agricultural impacts, hazardous material sites, wildlife crossings, and aesthetic impacts. The Final EIS addressed our concerns regarding historic properties, hazardous material sites, agricultural impacts, and aesthetic impacts. After reviewing the Final EIS, we continue to have concerns in four areas: wetlands, air quality, noise impacts, and wildlife crossings.

Wetlands

EPA commends WisDOT for its efforts to further refine the Preferred Alternative to reduce the impacted wetlands area from 38.8 acres to 33.3 acres. We encourage the selection of narrower median sections with positive barriers such as a concrete barrier, cable guard, or guard rail, especially at wetlands 82 and 92, during the final design phase of the project to further minimize the highway footprint. Our wetland comments in the Draft EIS focused on the use of floristic values and functional values to evaluate wetlands, concern with impacts to special aquatic sites (streams with riffle-pool structure as well as wetlands), bridging the floodplains, and the listing of impaired waterbodies affected by the proposed project. The Final EIS explained the wetland evaluation methodology used and clarified impacts to special aquatic sites and the listing of impaired waterbodies.

The Final EIS also stated that unavoidable wetland losses will be mitigated either through a wetland bank or through wetland mitigation areas adjacent to or near the corridor. We have several recommendations concerning the mitigation of wetlands. EPA recommends that, wherever possible, mitigation be done via in-kind replacement. EPA strongly recommends that mitigation take place within the Wolf River Basin to contribute to the Wolf River wetland complex. Lastly, in order to minimize the introduction of non-native, invasive species to existing wetlands, we recommend developing a decontamination plan that includes washing construction equipment before it enters the wetland work zone.

Preferred Alternative 3 will involve a new, longitudinal crossing of Black Otter Creek near the floodplains of the Wolf River. We encourage immediate coordination with the Wisconsin Department of Natural Resources (WDNR) to assess potential impacts to the floodplain resulting from the crossing, bridging alternatives, and compensatory floodwater storage.

Air Quality

In our comments regarding the air quality analysis included in the Draft EIS, EPA expressed disagreement with the information in Factor sheet L and Appendix G, which

maintained that certain information and tools for Mobile Source Air Toxics (MSATs) analyses are unavailable and incomplete. We agree that the CALINE and CAL3QHC were developed and validated a number of years ago; however they continue to undergo validation. We cited several recent studies that determined that CALINE, especially “CALINE4” accurately predicts ambient concentrations in near-roadway environments for both gaseous and particulate pollutants. In our Draft EIS comment letter, we recommended the discussion of uncertainties under the heading of “Dispersion” in Appendix G and discussions in Factor sheet L should be removed and replaced with an updated discussion of the use of CALINE4.

Our second Draft EIS comment concerning air quality focused on the “Exposure Levels and Health Effects” in Appendix G. EPA expressed disagreement. We recommended this discussion and corresponding language in Factor sheet L be removed and replaced with a discussion of possible exposure scenarios typically used by EPA in air toxics risk assessments.

Our third Draft EIS comment concerning air quality focused on toxicity information for the six MSATs of most concern in Appendix G. We noted that the primary health concern for acrolein is not cancer, but rather a respiratory endpoint. Similarly, benzene, acetaldehyde, formaldehyde, and 1,3 butadiene all have non-cancer endpoints of potential concern. We recommended the summary of toxic endpoints in Appendix G be revised to include health endpoints other than cancer.

We acknowledge WisDOT’s responses to these comments in the Final EIS; however, the responses provided do not address our comments. We understand the above information was taken from Federal Highway Administration’s (FHWA) published guidance. We reiterate our disagreement with this language. We acknowledge that this disagreement is a programmatic one between EPA and FHWA nationally and should be dealt with at that level.

Noise Impacts

The Final EIS addressed our comment regarding sound insulation for individual residences. Our Draft EIS comments recommended that construction noise impacts be evaluated, due to the proximity of the Hortonville High School. The Final EIS included a chart showing typical noise levels for a variety for construction equipment. However, the Final EIS did not discuss how long construction will be in process near Hortonville High School. We believe the Record of Decision should include a discussion of the possible length of time construction will take place in proximity to the High School.

Wildlife Crossings

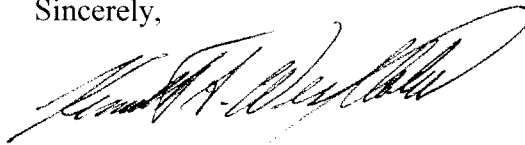
Factor Sheet I – The Upland Habitat Impact Evaluation states that Preferred Alternative 3, where it runs adjacent to Givens Road, will longitudinally impact a substantial wildlife corridor in the Wolf River Basin. We encourage WisDOT coordinate with WDNR to determine if wildlife passages are appropriate to reduce adverse effects to wildlife in this area. If deemed appropriate, coordination will help determine appropriate passage sizes and locations.

We appreciate the efforts the FHWA and WisDOT have made to address the concerns listed in our Draft EIS comment letter. We recommend the ROD:

- commit to incorporate all the mitigation measures outlined in Section 4.4, Measures to Minimize and Mitigate Adverse Effects,
- clarify that this project is going through a NEPA/Clean Water Act Section 404 merger process,
- commit that wetland mitigation will be done via in-kind replacement and that mitigation within the Wolf River Basin is the preferred location,
- commit to using a decontamination plan for construction equipment, and
- discuss the possible length of time construction will take place in proximity to Hortonville High School.

Thank you for the opportunity to review the Final EIS for the proposed Wisconsin State Highway 15 expansion project. Please send a copy of the Record of Decision to EPA once it is signed. If you have any questions or wish to discuss any aspect of our comments, please contact Simon Manoyan of my staff at (312) 353-2681 or via e-mail at manoyan.simon@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Enforcement and Compliance Assurance

cc: Mr. Dave Platz, Federal Highway Administration
Mr. Jay Waldschmidt, WisDOT Bureau of Equity and Environmental Services
Ms. Shelley Schaetz, Wisconsin Department of Natural Resources
Ms. Jill Utrup, U.S. Fish and Wildlife Service
Mr. Gary Knapton, U.S. Army Corps of Engineers